The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 2460 CUTTACK, MONDAY, AUGUST 4, 2025/SRAVANA 13, 1947

LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 30th July 2025

S.R.O. No. 578/2025—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award, dated the 18th June 2025 passed in the I.D. Case No. 01 of 2020 by the Presiding Officer, Industrial Tribunal, Rourkela on the industrial dispute between the Management of M/s Shree Hari Sponge (Pvt.) Ltd., At Kendrikela, P.O. Bonai, Dist. Sundargarh and Shri Pinakadhari Sahu, S/o Labanidhar Sahu, At Sundhikun, P.O. Bonai, Dist. Sundargarh was referred for adjudication is hereby published in the schedule below :—

SCHEDULE

BEFORE THE INDUSTRIAL TRIBUNAL, ROURKELA

INDUSTRIAL DISPUTE CASE NO. 01 of 2020

Dated the 18th June 2025

Present :

Shri Benudhar Patra, B.Sc. LL.M.,
Presiding Officer,
Industrial Tribunal,
Rourkela.

Between :

The Management of —
M/s Shree Hari Sponge (Pvt.)Ltd.,
At Kendrikela,
P.O. Bonai,
Dist. Sundargarh. . . First Party—Management

And

Shri Pinakadhari Sahu,
S/o Labanidhar Sahu,
At Sundhikun,
P.O. Bonai,
Dist. Sundargarh. . . Second Party—Workman

Appearances :

Shri Ramesh Ch. Ray, Advocates	: For the First Party
Shri N.K. Sahoo & R.K. Sahoo, Advocates	: For the Second Party

AWARD

The Government of Odisha Labour & E.S.I. Department in exercise of powers conferred by sub-section (5) of Section 12 read with Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act') have referred the following dispute for adjudication vide their order No. 8066—IR(I.D.)58/2016-LESI, dated the 30th December 2019 read with the Corrigendum issed vide Letter No. 3330—LESI-IR-ID-0027/2018-LESI, dated the 4th April 2025 :

> "Whether the action of the management of M/s Shree Hari Sponge (P) Ltd., At/P.O. Bonai, Dist. Sundargarh by way of refusal of employment of Shri Pinakadhari Sahu with effect from the 16th November 2015 is legal and/ or justified ? If not, to what relief Shri Sahu is entitled ?"

2. In nutshell, the case of the 2nd party workman is that he was engaged as weighbridge operator in the plant of the 1st party management on the 11th January 2009 with a monthly wage of Rs. 8,000 and his performance was throughout satisfactory. It is stated that for reasons best known to the management two of its workers namely Pratap Kissan and Murali Patra were removed on the 11th October 2015, which compelled the workers to hold general body meeting on the 17th October 2020 to constitute a union to safeguard their interest. According to the 2nd party, the management being annoyed with the activities of the union all of a sudden refused employment to him on the 16th November 2020 and did not allow him to perform his work. It is stated that after much presuasion when the 2nd party was not taken back into employment, he raised a complaint before the Sub-Collector, Bonai which was forwarded to A.L.O., Bonai for appropriate steps, but on account of non-co-operation of the management nothing could be achieved before the A.L.O., hence the reference. In the aforesaid background the 2nd party has prayed for reinstatement in service with full back wages and consequential service benefits.

3. The 1st party management in his written statement stated that the 2nd party workman was engaged under the pay roll of the management since, the 2nd April 2012. As he was an arrogant/indiscipline workman and involved himself in all illegal activities, inasmuch as he used to harass the transporters, vehicle drivers and other staff of the plant, he was issued with a show cause notice on the 14th November 2015 basing on the complaints of the transporters and drivers. But the 2nd party did not respond to the notice rather continued to indulge in illegal activities for which he was removed from service. Specifically, it is averred in the written statement that since the 2nd party has been paid all his benefits for services rendered under the management he is not entitled to the relief (s) claimed.

4. Based on the pleadings, the following issues have been framed for consideration :—

(i) Whether the action of the Management of M/s Shree Hari Sponge (P) Ltd., At/P.O. Bonai, Dist. Sundargarh as to refusal of employment of Shri Pinakadhari Sahu with effect from the 16th November 2015 is consequent upon a domestic enquiry conducted against him by the management and if so, whether the same is fair and proper ?

(ii) Whether the action of Management of M/s Shree Hari Sponge (P) Ltd., At/P.O. Bonai, Dist. Sundargarh as to refusal of employment of Shri Pinakadhari Sahu with effect from the 16th November 2015 is legal and/or justified ?

(iii) Whether the 2nd party workman is entitled for reinstatement in service with full back wages and other consequential service benefits ?

(iv) Whether any other relief (s) the 2nd party workman is entitled to ?

5. In course of hearing while the 2nd party examined himself as W.W.1 and placed reliance on documents which have been marked as Ext. 1 to Ext. 4/a, the 1st party management examined three witnesses on its behalf and relied on documents marked Ext. A to Ext. F/1.

FINDINGS

6. *Issue Nos. (i)& (ii)*—Under these issues, the Tribunal is required to arrive at a decision as to whether the refusal of employment to the 2nd party was preceded by a domestic enquiry and if so whether tha same is fair and proper and further if the action of the management is legal and justified. For the sake of convenience both the issues are taken up for consideration together.

7. From the pleadings as well as evidence available on record there is no doubt over the fact that the refusal of employment to the 2nd party was not a case of termination simpliciter but an action amounting to imposition of punishment due to alleged commission of certain misconducts based on the allegation of the transporters as well as drivers as contained in Ext. A. In the context, it is the definite stand as well as evidence of the 1st party management that basing on the complaints of the transporters and drivers, the workman was issued with show cause notice (Ext. A), but the 2nd party while refusing to receive the said show cause notice did not turn up to his duty thereafter and as such there is reason to presume that the 2nd party has voluntarily abandoned his employment. According to the management this is not at all the case of termination of 2nd party from service. The stand of the 2nd party on the other hand is that he was not allowed to perform his duty on and from the 16th November 2015 due to his union activities and as such the action amounts to termination of his service in gross violation of the provisions of the Act and so also the principles of natural justice.

8. The management though tried to prove through its witnesses that the 2nd party refused to receive the show cause Ext. A and in that connection led evidence through M.W.3 to the effect that Ext. A was refused by the 2nd party in his presence and accordingly he has put his signature Ext. A/1 on Ext. A, yet no reason is assigned as to why the management did not sent the show cause notice through Regd. Post with A/D and proceed against the 2nd party in accordance with law. Further nothing reveals from record that on his refusal to receive Ext. A the 2nd party was ever called upon to attend any enquiry for the purpose, nor he was charge sheeted for the alleged misconduct. To substantiate its stand though the management has proved Ext. F, the complaint of one Sisir Patra (J.C.B. Operator), which culminated into the show cause, but no step seems to have been taken by the management for his examination in this Tribunal to corroborate the allegation contained in Ext. F.

In the above *scenario,* undisputedly it can be said that no enquiry worth the name was conducted by the management before doing away with the job of the 2nd party. It reveals from Ext. 1 and 2 photo copies of documents showing the provisional appointment letter of the 2nd party and one experience certificate issued in his favour by the management that initially the 2nd party was under probation for a period of three years from the 11th January 2009 thereafter worked with the management till he was allegedly refused employment by the management. As such the 2nd party can be said to be a regular employee under the management and in the event of imposition of any punishment on the 2nd party the legal procedures should have been followed by the

management. To buttress the above view a decision of the Hon'ble Apex Court in the case of D.K. Yadav *Vs.* J.M.A. Industries Ltd. reported in 1993 SCR (3) 930 may be referred to, wherein their Lordships have held thus:

> "It is a fundamental rule of law that no decision must be taken which will affect the right of any person without first being informed of the case and be given him/ her an opportunity of putting forward his/ her case. An order involving civil consequences must be made consistently with the rules of natural justice. In Mohinder Singh Gill & Anr. *vrs.* The Chief Election Comissioner & Ors. [1978] 2 SCR 272 at 308F the Constitution Bench held that 'civil consequence' covers infraction of not merely property or personal right but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation everything that affects a citizen in his civil life inflicts a civil consequence. Black's Law Dictionary, 4th Edition, Page 1487 defined civil rights are such as belong to every citizen of the State or country they include rights capable of being enforced or redressed in a civil action. In State of Orissa *v.* Dr. (Miss) Binapani Dei & Ors., this court held that even an administrative order which involves civil consequences must be made consistently with the rules of natural justice. The person concerned must be informed of the case, the evidence in support thereof supplied and must be given a fair opportunity to meet the case before an adverse decision is taken.
> xx xx xx xx"
>
> It is thus well-settled law that right to life enshrined under Art. 21 of the Constitution would include right to livelihood. The order of termination of the service of an employee/workman visits with civil consequences of jeopardising not only his/her livelihood but also career and livelihood of dependents. Therefore, before taking any action putting an end to the tenure of an employee/workman fair play requires that a reasonable opportunity to put forth his case is given and domestic enquiry conducted complying with the principles of natural justice. xx."

9. Keeping in view the settled proposition of law, as propounded by Hon'ble Apex Court, this Tribunal unhesitatingly arrives at the conclusion that the management even if assumed the lapses of the 2nd party to be an act of misconduct, yet without conducting any enquiry to substantiate such allegation against the 2nd party and without following the principles of natural justice denied him employment, which amounts to termination of his service. Considering the case from the other angle also, the action of the management is not sustainable in the eye of law; the reason being that the second party had rendered continuous service under the management for a period of nearly four years as a regular worker and as such he was entitled to the protection of Section 25-F of the Act and non-compliance of the said provisions renders its action illegal as well as unjustified.

As per the discussions held in the preceding paragraphs, both the issues are answered in negative as against the management.

10. *Issue Nos. (iii) & (iv)*—As a corollary of the discussions held under Issue Nos. (i) & (ii), the next question that falls for determination is as to what relief the 2nd party is entitled. The 2nd party in his claim statement as well as in his evidence has stated that from the date of refusal of

employment, he is not gainfully employed elsewhere. Though the management has stated through its witness M.W.1 that, after leaving the company, the 2nd party is engaged in an organization namely Niam Educational Foundation, but it seems to have failed to substantiate the same by leading any positive evidence. Rather, the evidence available on record discloses that the second party was a regular worker under the management and has served the organization for more than three years and that he is now aged about 41 years. So, taking an overall view of the matter, this Tribunal finds it a fit case to pass an order of reinstatement in favour of the 2nd party and so also to award some compensation in lieu of back wages in his favour. Accordingly, the management is directed to reinstate the 2nd party in service forthwith and to pay him a compensation amounting to Rs. 50,000 (Rupees fifty thousand) only within a period of two months of the date of publication of Award in the official gazette. In case the management fails to pay the compensation within the stipulated time, the awarded compensation would carry a simple interest of 6% per annum till its realization.

The issues are answered accordingly.

Dictated and corrected by me.

BENUDHAR PATRA
18-06-2025
Presiding Officer
Industrial Tribunal, Rourkela

BENUDHAR PATRA
18-06-2025
Presiding Officer
Industrial Tribunal, Rourkela

[No. 6874—LESI-IR-ID-0027/2018-LESI.]

By order of the Governor

MADHUMITA NAYAK

Special Secretary to Government

Printed and Published by the Director, Directorate of Printing, Stationery & Publication, Odisha, Cuttack-10
Ex. Gaz. 1670—173+9